

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

JONES NOISE CONTROL, INC.

and

Case 28--CA--10788

ARIZONA STATE DISTRICT COUNCIL  
OF CARPENTERS AND ITS AFFILIATED  
LOCALS, AFL-CIO

*June 25, 1991*  
DECISION AND ORDER

*By Chairman Stephens and Members Devaney and Randalbaugh*

Upon a charge filed by the Union on February 28, 1991, the General

Counsel of the National Labor Relations Board issued a complaint against Jones Noise Control, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent has failed to file an answer.

On April 26, 1991, the General Counsel filed Motions to Transfer and Continue Matter before the National Labor Relations Board and for Summary Judgment. On April 30, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

## Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, ''all of the allegations in the complaint shall be deemed to be admitted to be true and shall be so found by the Board.'' Further, the undisputed allegations in the Motion for Summary Judgment disclose that the counsel for the General Counsel, by letter dated April 16, 1991, to the Respondent's counsel, confirmed the Respondent's telephone conversation with the General Counsel in which the Respondent stated that it did not intend to file an answer to the complaint and that the Respondent understood that the failure to file an answer would result in the General Counsel filing a Motion for Summary Judgment. In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

## Findings of Fact

## I. Jurisdiction

The Respondent, an Arizona corporation, is engaged in the building and construction industry as a contractor performing the installation of acoustical materials at its facility in Phoenix, Arizona. During the 12-month period ending February 28, 1991, the Respondent, in the course and conduct of its business operations, purchased and received goods and materials valued in excess of \$50,000, which were transported in interstate commerce and delivered to its place of business in the State of Arizona directly from suppliers located in States of the United States other than the State of Arizona. We

find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. Alleged Unfair Labor Practices

On July 19, 1990, the Union was certified the exclusive bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time employees regularly involved in the installation of acoustical materials, including, but not limited to, journeymen, apprentice and preapprentice carpenters employed in the State of Arizona by the Respondent; excluding all other employees, including office clerical employees, guards and supervisors as defined in the Act.

Since July 20, 1990, including by letters dated July 23, 1990, and August 24, 1990, the Union has requested that the Respondent recognize and bargain with it as the exclusive bargaining representative of the unit employees. On October 29, 1990, the Respondent executed a settlement agreement in Case 28--CA--10500 in which it agreed to recognize and to bargain collectively and in good faith with the Union. Thereafter, during November 1990 and February 1991, the Respondent met and bargained with the Union with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment. Specifically, during this time, the Respondent and the Union met for approximately 8 minutes on November 1, 1990, for approximately 4 minutes on November 21, 1990, and for approximately 1-1/2 hours in separate caucus on February 26, 1991. Since February 26, 1991, and at all times thereafter, the Respondent has failed and refused to bargain further with the Union. We find that by this conduct the Respondent has failed and refused to bargain collectively and in good faith with the representative of its employees, that it has engaged in bad-faith bargaining without any real intention of reaching agreement with the Union, and that it has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

## Conclusions of Law

By failing and refusing since February 26, 1991, and at all times thereafter, to bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of the unit employees, and by engaging in bad-faith bargaining without any real intention of reaching agreement with the Union, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## Remedy

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

We shall order the Respondent, on request, to bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of the unit employees and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. Mar-Jac Poultry Co., 136 NLRB 785 (1962); Lamar Hotel, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); Burnett Construction Co., 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Jones Noise Control, Inc., Phoenix, Arizona, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively and in good faith with Arizona State District Council of Carpenters and its Affiliated Locals, AFL--CIO as the exclusive collective-bargaining representative of its employees in the following appropriate unit:

All full-time and regular part-time employees regularly involved in the installation of acoustical materials, including but not limited to, journeymen, apprentice and preapprentice carpenters employed in the State of Arizona by the Respondent; excluding all other employees, including office clerical employees, guards and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain collectively and in good faith with the Union as the exclusive representative of the Respondent's employees in the above unit, with respect to rates of pay, wages, hours, and other terms and conditions of employment and, if an agreement is reached, embody it in a signed document.

(b) Post at its facility in Phoenix, Arizona, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's

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<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. June 25, 1991

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James M. Stephens, Chairman

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Dennis M. Devaney, Member

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John N. Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain collectively and in good faith with Arizona State District Council of Carpenters and its Affiliated Locals, AFL--CIO as the exclusive collective-bargaining representative of its employees in the following bargaining unit:

All full-time and regular part-time employees regularly involved in the installation of acoustical materials, including, but not limited to, journeymen, apprentice and preapprentice carpenters employed in the State of Arizona by the Respondent; excluding all other employees including office clerical employees, guards and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain collectively and in good faith with the Union and if agreement is reached, WE WILL incorporate such agreement in a written agreement.

JONES NOISE CONTROL, INC.

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(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 234 North Central Avenue, Suite 440, Phoenix, Arizona 85004-2212, Telephone 602--261--3188.